

Remarks

Applicant respectfully requests consideration of the instant application in view of the above amendments and the following remarks.

Claim Status & Election/Restriction

Claims **1-55** are pending in the application, but are subject to a species election requirement. Applicant affirms the election without traverse of **Species 3**, upon which read **claims 12-23 and 47**. The remaining claims are presently withdrawn from consideration as being drawn to non-elected species of the invention. The withdrawn claims are all dependent upon **claim 12**. Accordingly, if **claim 12** becomes allowed, Applicant respectfully requests that the presently withdrawn claims be automatically rejoined to the application.

Claims 12-22 and 47 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. **US 2004/0204797** to Vickers.

Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. **6,307,277** to Tamai et al.

Newly Filed Related Applications

On 28 September 2007, U.S. Application Serial No. 11/864,872 (Docket No. 5704-01209), entitled *Method of Anticipating a Vehicle Destination*, was filed as a division of the instant application, with **claims 1-11** corresponding to original **claims 24-34** of the instant application.

Also on 28 September 2007, U.S. Application Serial No. 11/864,880 (Docket No. 5704-02209), entitled *Hybrid Electric Vehicle Energy Management System*, was filed as a division of the instant application, with **claims 1-20** corresponding to original **claims 34-54** of the instant application.

On 29 October 2007, U.S. Application Serial No. 11/926,367 (Docket No. 5704-04209), entitled *Method of Controlling a Recuperated Turbine Engine*, was filed as a continuation of the instant application, with **claims 1-11** corresponding to original **claims 1-11** of the instant application.

Claim Amendments

Claim 10 has been amended at line 10 to delete the phrase “said recuperated turbine engine is installed in a vehicle, and”, so as to eliminate a redundancy.

Claim 12 has been amended to incorporate the limitations of **claim 15**, and **claim 15** has been cancelled without prejudice. In step b, the phrase “previously stored driving pattern for said vehicle” of claim 15 has been incorporated in claim 12 as --a previously stored driving pattern of said hybrid electric vehicle--. In step d, the phrase “using said traction motor powered at least by” has been changed to –at least using said traction motor powered by-- as supported by paragraph [0036] and FIG. 1 of the original specification and drawings as filed.

Claims 13 and 36 has been amended at line 3 to change “in the vehicle” to --of said hybrid electric vehicle--.

Claims 19 and 20 have each been amended to depend upon **claim 18** instead of **claim 12**.

Claim 21 has been amended to depend upon **claim 12** instead of **claim 18**.

Claim 22 has been amended to depend upon **claim 12** instead of **claim 19**.

Claims 21 and 22 have been amended to insert --further comprising causing a fuel flow to said power generator and generating power with said power generator responsive thereto,-- before “wherein”, so as to improve clarity.

Claim 23 has been rewritten in independent form, with the addition of step c as follows to improve clarity: --c. causing a fuel flow to said power generator and generating power with said power generator responsive thereto;--.

Claim 27 has been amended to replace the phrase “comparing said plurality of locations with said information characterizing said at least one route that was driven from said first destination to said possible second destination” with the phrase --determining said likely second destination of said hybrid electric vehicle from said information about said previous driving pattern in view of said at least one location of said hybrid electric vehicle along a driving route from said known first destination-- as supported by paragraphs [0053] through [0055] of the original specification as filed.

Claims 28, 32, 33, 34, 41 have been amended to replace “stored information” with -- information about said previous driving pattern--, so as to provide for proper antecedent basis.

Claim 45 has been amended to replace “said stored information” with –said information--, so as to provide for proper antecedent basis.

Claim 47 has been amended to insert the following subject-matter -- corresponding to original **claim 15** -- as step f.i before existing step f.i, and to renumber the former steps f.i through f.iii as steps f.ii through f.iv respectively:

- i. automatically determining said destination responsive to a driving pattern of said hybrid electric vehicle inferred from said at least one measure of location in view of information related to a previously stored driving pattern of said hybrid electric vehicle.

The claims have also been amended to provided for proper antecedent basis of the elements thereof, as indicated in the following table, wherein for each listed element, the associated claims have been edited so as to provide for proper antecedent basis of that element:

Element	Claim #'s
energy storage device	4, 5, 11, 46
hybrid electric vehicle	5, 6, 10, 11, 12, 13, 16, 18, 20, 24, 25, 27, 28, 29, 33, 34, 35, 36, 38, 40, 41, 42, 45, 47, 48, 50, 52, 54, 55
destination	5, 6
recuperated turbine engine	7
recuperator	8 (replacing “said recuperator” with --a recuperator of said recuperated turbine engine--;
fuel flow	10, 21, 22
Predicted route	19, 20
known first destination	24, 28, 32, 33, 52, 53
likely second destination	24, 28, 41, 45
previous driving pattern	29, 42, 45
driving route	32, 33, 34
at least one location	35
likely second driving pattern	35
likely third destination	41, 45
power generator	46
at least one previous driving pattern	52, 55

Applicant respectfully submits that no new matter has been added by this amendment.

Claim Objections

Claim 12 stands objected to because the claim does not end with a period at line 11.

Applicant respectfully submits that this error has already been corrected by the Preliminary Amendment filed on 6 August 2007.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 12-22 and 47 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. **US 2004/0204797** to Vickers.

Regarding **claim 12**, Applicant respectfully submits that the Examiner has not established a *prima facie* basis for the rejection of **claim 15**, now **claim 12**, and respectfully traverses on the grounds that Vickers does not provide an enabling disclosure of the following limitation imported from **claim 15**:

“said destination is automatically determined responsive to a driving pattern of said hybrid electric vehicle inferred from said at least one location in view of information related to a previously stored driving pattern of said hybrid electric vehicle;”

The Examiner had rejected **claim 15** over paragraph [0024] of Vickers, which states as follows:

[0024] “After storing the position of vehicle **10** in module **108**, processor **34** may retrieve the route of vehicle **10** from trip history database **40** and determines if this previously stored route matches the current route of the vehicle **10**. This current route may be input by the user. If no trip route has been entered, module **108**, based, on previous trips can “determine” the likely destination and route using artificial intelligence referencing the trip history database **40**.” (underlining added)

The only portion of paragraph [0024] of Vickers that would appear to be relevant to **claim 15**, now **claim 12**, would be the single sentence therein that has been underlined hereinabove. It is readily apparent that this sentence does not disclose any structure or method by which the “module **108**, based, on previous trips can “determine” the likely destination and route using artificial intelligence referencing the trip history database **40**” What is meant by “determine”? What is meant by “artificial intelligence”? Nor does the remainder of the Vickers

application elucidate how this done or by what means. Clearly, one of ordinary skill in the art would need to undergo at a minimum undue experimentation, if not likely also having to provide further non-obvious contribution, in order to satisfy the limitations of **claim 15**, now **claim 12**. Applicant respectfully submits that Vickers does not provide an “enabling disclosure” sufficient to anticipate **claim 15**, now **claim 12**, and accordingly is not a proper reference under 35 U.S.C. §102(e). Applicant respectfully requests reconsideration and allowance of **claim 12** in view of the above argument.

Claims 13-22 each depend upon **claim 12**, which Applicant respectfully submits is now in allowable form as presently amended. Accordingly, if the above argument in respect of **claim 12** is accepted, then Applicant respectfully submits that claims 13-22 are each now in allowable form because the addition of further limitations to an already novel and non-obvious claim does not negate non-obviousness. Accordingly, Applicant respectfully requests reconsideration and allowance of claims 13-22 in view of the above argument.

Regarding **claim 47**, Applicant respectfully submits that Vickers does not provide an enabling disclosure of the following limitation now incorporated **claim 47**:

- “i. automatically determining said destination responsive to a driving pattern of said hybrid electric vehicle inferred from said at least one measure of location in view of information related to a previously stored driving pattern of said hybrid electric vehicle;”

For the same reasons as for **claim 15**, now **claim 12**, Applicant respectfully submits that Vickers does not provide an “enabling disclosure” sufficient to anticipate **claim 47**, and accordingly is not a proper reference under 35 U.S.C. §102(e). Applicant respectfully requests reconsideration and allowance of **claim 47** in view of the above argument.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,307,277 to Tamai et al.

Applicant respectfully submits that the Examiner has not established a prima facie basis for rejecting **claim 23**, and respectfully traverses on the grounds that neither Tamai et al. nor

Vickers satisfy all of the limitations of **claim 23**, nor would the subject-matter of **claim 23** be predictable in view of the teachings of Tamai et al. in view of Vickers.

The Examiner contends that “Tamai teaches a fuel control system for a hybrid electric vehicle with an engine, a traction motor, and energy storage devices (batteries 24, 26, 28), and wherein after the fuel flow is shut off to the power generator, the power generator generates power and using a portion of the power generated to store energy in the energy storage device (column 3, lines 18-65).” To the contrary, as best understood, column 3, lines 18-65 of Tamai et al. would appear to disclose the situation wherein fuel is shut off to the engine (power generator), after which the electric motor (traction motor) provides for recharging a battery pack (energy storage device). Accordingly, after fuel is shut off to the power generator, Tamai et al. does not disclose or suggest “generating power with said power generator after said fuel flow is shut off to said power generator”. Furthermore, Tamai et al. does not appear to disclose a power generator capable of continuing to generate power after shutting off fuel flow thereto. The electric motor of Tamai et al. cannot satisfy both the power generator and the traction motor limitations of **claim 23**. Instead, the electric motor can only satisfy the traction motor limitation of **claim 23**, because it is the engine of the Tamai et al. which acts as a power generator to generate power responsive to a fuel flow thereto, and the shut off of fuel flow limitation applies only to the engine, and not to the electric motor.

Applicant respectfully requests reconsideration and allowance of **claim 23** in view of the above argument.

Extension of Time and Payment of Fees Under 37 CFR § 1.17(a)(1)
Authorization to Charge Fee Deficiencies

Applicant hereby petitions for a One-Month Extension of Time, pursuant to 37 C.F.R. §1.136, extending the deadline for response up to and including 18 February 2008, resulting in an associated fee of **\$120** under 37 C.F.R. § 1.17(a)(1). A credit card payment form in the amount of **\$120** is enclosed herewith for payment of the fees under 37 C.F.R. § 1.17(a)(1). The Commissioner is authorized to charge any deficiencies or credit any overpayments – that cannot otherwise be made to the credit card -- to Deposit Account 04-1131.

Summary and Conclusions

Applicant confirms the election without traverse of **Species 3**, upon which read **claims 12-23 and 47**, and requests rejoinder of the remaining claims upon allowance of **claim 12**. **Claim 12** has been amended to incorporate the limitations of **claim 15**, **claim 15** has been cancelled without prejudice, **claim 23** has been rewritten in independent form, and **claim 47** has been amended to incorporate a limitation corresponding to **claim 15**. The rejections of **claims 12 and 23** have been traversed, and the rejection of **claim 47** has been overcome. **Claim 10** has been amended to eliminate a redundancy. The dependencies of claims **19-22** have been changed. **Claims 13, 23, 27 and 36** have been amended to improve clarity. **Claims 5-8, 10, 11, 12, 13, 16, 18-22, 24, 25, 27-29, 32-36, 38, 40, 41, 42, 45-47, 48, 50 and 52-55** have been amended to provide for proper antecedent basis.

Applicant respectfully submits that the instant application is now in the proper form for Notice of Allowance, and respectfully requests a timely issuance thereof in this application. Otherwise, Applicant invites the Examiner to contact the undersigned at **248-364-2100** to discuss any remaining issues.

Respectfully Submitted,

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